

State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: July 9, 2026

CV-24-1033

In the Matter of the Claim of PEDRO
P. MINOTTA RIVERA,
Claimant,

v

LETTIRE CONSTRUCTION CORP.
et al.,
Appellants.

MEMORANDUM AND ORDER

WORKERS' COMPENSATION
BOARD,
Respondent.

Calendar Date: May 29, 2026

Before: Clark, J.P., Aarons, Ceresia, McShan and Powers, JJ.

Goldberg Segalla LLP, Rochester (*Bradford J. Reid* of counsel), for appellants.

Letitia James, Attorney General, New York City (*Donya Fernandez* of counsel),
for respondent.

Ceresia, J.

Appeal from a decision of the Workers' Compensation Board, filed May 7, 2024,
which denied Starr Indemnity & Liability Company's request to reopen the workers'
compensation claim.

In March 2023, claimant filed a claim for workers' compensation benefits alleging that he sustained various injuries when he fell from a ladder while working for Lettire Construction Corp. The Workers' Compensation Board initially indexed the claim against Starr Indemnity & Liability Company (hereinafter Indemnity) as the responsible carrier, and Indemnity filed a First Report of Injury denying the claim on several grounds, including lack of coverage. After an investigation by the Board's Bureau of Compliance Enforcement Unit identified Starr Specialty Insurance (hereinafter Specialty) – not Indemnity – as the proper carrier, the Board removed Indemnity from notice effective May 1, 2023.

In June 2023, Specialty, through its third-party administrator Helmsman Management Services, Inc., denied the claim and raised various defenses. Thereafter, Liberty Mutual, ostensibly identifying itself as the workers' compensation carrier for Lettire, filed a prehearing conference statement on June 15, 2023 and appeared at a prehearing conference. When questioned, counsel initially stated that she represented Liberty Mutual but subsequently clarified that she represented Liberty Mutual care of Helmsman. Counsel then requested that Specialty be placed on notice and provided the Workers' Compensation Law Judge (hereinafter WCLJ) with Specialty's policy number. Claimant's counsel responded that Specialty was already on notice, had failed to file a preconference statement and therefore had waived its defenses. The WCLJ, in addition to finding prima facie medical evidence for the claim, directed Specialty to appear at the next hearing to explain its failure to file the requisite prehearing conference statement.

At the next hearing, Specialty again failed to appear. At that hearing, counsel noted her appearance on behalf of Helmsman and requested to be discharged from the matter and removed from notice, which the WCLJ declined to do at that time. The WCLJ found that Specialty had failed to appear for the second time and did not file a timely prehearing conference statement and concluded that Specialty waived all defenses. A penalty against Specialty also was imposed, and the WCLJ's decision was memorialized in a decision filed August 3, 2023. No objection to this decision was noted on record.

On September 1, 2023, Indemnity, care of Helmsman, filed an application for rehearing and reopening challenging the WCLJ's August 3, 2023 decision finding that "Starr/Helmsman" waived all defenses.¹ The Board, in a decision filed May 7, 2024,

¹ A hearing was held on August 31, 2023 wherein claimant testified regarding the existence of an employer-employee relationship. Appearances were made by claimant's counsel and counsel "for Starr and its [third-party administrator] Helmsman on behalf of

denied the application, noting that it was Specialty, not Indemnity, that was found to have waived all defenses and that Indemnity had been released from notice on May 1, 2023. This appeal by Specialty care of Helmsman ensued.

Workers' Compensation Law § 23 provides that WCLJ decisions may not be appealed directly to this Court prior to the party first seeking review before the Board. Here, although the August 3, 2023 WCLJ decision expressly found that Specialty had waived all defenses, Specialty did not request Board review of that decision. The record makes clear that Indemnity, not Specialty, sought Board review, despite previously being removed from notice and no longer being a party to the claim. As the record confirms, and as the Board noted, Specialty and Indemnity are separate workers' compensation carriers/entities. Because Specialty failed to seek Board review of the August 3, 2023 WCLJ decision, this Court lacks jurisdiction to review the Board's May 7, 2024 decision denying Indemnity's request for reopening and reconsideration as Specialty cannot substitute itself for Indemnity on appeal. Accordingly, the appeal must be dismissed.

Clark, J.P., Aarons, McShan and Powers, JJ., concur.

ORDERED that the appeal is dismissed, without costs.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive, flowing style.

Robert D. Mayberger
Clerk of the Court

Lettire." Whether an employer-employee relationship existed has not been resolved as the WCLJ ruled, in a decision field December 5, 2023, that there would be no further action regarding the claim pending the outcome of the application for Board review.